

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

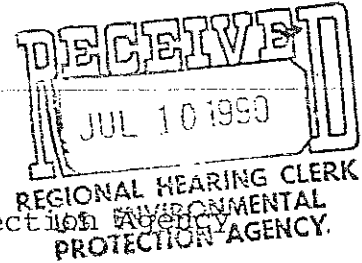
In the Matter of:)

) Docket No. EPCRA-90-1990

GENEVA RUBBER CO., INC.)
5449 BISHOP ROAD)
GENEVA, OHIO 44041)

) Consent Agreement
) And
) Consent Order

) Respondent.)



CONSENT AGREEMENT

1. The United States Environmental Protection Agency ("U.S. EPA") initiated this civil administrative proceeding for the assessment of a penalty pursuant to Section 325(c) of the Emergency Planning and Community Right to Know Act of 1986 ("EPCRA"), 42 U.S.C. §11045(c), by filing a Civil Complaint and Notice of Opportunity for Hearing against the Respondent, Geneva Rubber Company, Inc., on January 16, 1990.

2. Count 1 of the Complaint alleged that the Respondent violated Section 313 of EPCRA, 42 U.S.C. §11023, and 40 C.F.R. Part 372 by failing to timely submit a Toxic Chemical Release Inventory Reporting Form ("Form R") for Methylene Chloride, a chemical "otherwise used" at Respondent's facility in quantities above the established threshold for reporting.

3. Count 2 of the Complaint alleged that the Respondent violated Section 313 of EPCRA, 42 U.S.C. §11023, and 40 C.F.R. Part 372 by failing to timely submit a Toxic Chemical Release Inventory Reporting Form ("Form R") for toluene, a chemical "otherwise used" at Respondent's facility in quantities above the established threshold for reporting.

4. Complainant and Respondent discussed settlement of this matter during informal settlement conferences held on March 27, 1990, during which Respondent was represented by Mr. Donald P. Reiter, President, Geneva Rubber Company, Co., Mr. Barry Drought, Technical Manager, Geneva Rubber Co. and Joseph P. Tulley, of Tulley & Jurjans, Counsel for Geneva Rubber Co.

Complainant was represented by Mr. David M. Dabertin, Assistant Regional Counsel, and Mr. Ken Glatz, Chemical Engineer.

5. Between November 23, 1987 through March 20, 1988, Respondent expended approximately \$5,000.00 in evaluating, testing and adopting a non toxic water-based stripping compound to replace methylene chloride. This reduced the use of methylene chloride to approximately 7,500 pounds, a seventy per cent reduction over 1987 usage.

6. Respondent certifies that it has now completed and submitted to U.S. EPA and to the State of Ohio all Toxic Chemical Release Inventory Reporting Forms required pursuant to Section 313 of EPCRA, and that these Forms are in compliance with the requirements of Section 313 of EPCRA and 40 C.F.R. Part 372.

7. Complainant and Respondent have determined, based on the informal settlement process, that this matter should be settled without resort to a hearing or further proceedings, upon the terms set forth in this Consent Agreement and Consent Order.

8. Without trial or litigation of any issue of fact or law, Respondent hereby admits the jurisdictional allegations and neither admits nor denies the factual allegations in the Complaint.

9. Respondent withdraws its request for a hearing and waives its right to a hearing on the Complaint, as provided at 40 C.F.R. §22.15(c), and waives its right to appeal the penalty agreed to herein pursuant to Section 325(f) of EPCRA, 42 U.S.C. §11045(f).

10. This Consent Agreement and Consent Order is a "final order" for purposes of U.S. EPA's Enforcement Response Policy For Section 313 Of The Emergency Planning And Community Right To Know Act.

11. Respondent consents to the terms of the Consent Order set forth below.

CONSENT ORDER

Based on the foregoing, and pursuant to Section 325(c) of EPCRA, it is hereby ORDERED that:

12. Respondent shall comply with all the applicable requirements of EPCRA, whether named or unnamed in the Complaint;

13. In consideration of the following enumerated factors, Complainant consents to mitigate the proposed civil penalty of Ten thousand dollars (\$10,000), in settlement of the Complaint, to Six thousand and five hundred dollars (\$6,500). The factors which Complainant considered and the mitigation amount attributable to each factor were as follows: a) in consideration of Respondent's environmentally beneficial expenditures outlined in paragraph 5, Complainant consents to mitigate the penalty by \$2000, b) in consideration of Respondent's good faith and cooperation in

settling this matter, Complainant consents to mitigate the penalty by \$1500.

14. The civil penalty payable hereunder, shall be made by certified or cashier's check, made payable to "Treasurer, United States of America," and sent to U.S. Environmental Protection Agency, Region V, P.O. Box 70753, Chicago, Illinois 60673, within 30 days after filing of this Consent Agreement and Consent Order with the Regional Hearing Clerk. A copy of the check shall be sent to the Regional Hearing Clerk (5MFA-14); to Counsel for the Complainant (5CA-TUB-3); and to the Branch Secretary, Pesticides and Toxic Substances Branch (5SPT-7), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604;

15. Failure to comply with the terms of this Consent Agreement and Consent Order, including timely payment of the agreed penalty, will render the full proposed penalty of \$10,000 due and payable immediately to the Treasurer of the United States of America, in the manner and at the address specified in paragraph 13, above. Failure to pay the full proposed penalty may result in the referral of this matter to the United States Department of Justice for collection;

16. Interest shall accrue on any amounts overdue under the terms of this Consent Agreement and Consent Order at the rate established by the Secretary of the Treasury, pursuant to 31 U.S.C. §3717. A late payment handling charge of \$20.00 will be imposed after 30 days, with an additional charge of \$10.00

for each subsequent 30-day period over which an unpaid balance remains. In addition, a six percent per annum penalty will be assessed on any principal amount not paid within ninety days of the date that this Consent Agreement and Consent Order is signed by the Regional Administrator;

17. The parties to this agreement consent to the entry of this Consent Agreement and Consent Order without further notice.

Consent Agreement and Consent Order
Geneva Rubber Company, Inc., Geneva, Ohio
Docket No. EPCRA-V-019-1990

GENEVA RUBBER COMPANY
Respondent

Dated: 6-19-90

By: Donald P. Reiter
Donald P. Reiter
President
Geneva Rubber Company

Dated: 6-14-90

By: Joseph P. Tulley
Joseph P. Tulley
Greene, Tulley & Jurjans
Counsel for Geneva
Rubber Company

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION V
Complainant

Dated: July 5, 1990

By: William H. Sanders, III, P.E.
For William H. Sanders, III, P.E.
Director, Environmental
Sciences Division
U.S. Environmental Protection
Agency, Region V
230 South Dearborn Street
Chicago, Illinois 60604

Consent Agreement and Consent Order
Geneva Rubber Company, Inc., Geneva, Ohio
Docket No. EPCRA-V-019-1990

IT IS SO ORDERED, as agreed to by the parties and as stated
in the Consent Agreement. This Order shall become effective
immediately.

Dated: July 9th 1990

Valdas V. Adamkus
VALDAS V. ADAMKUS
Regional Administrator

RECEIVED
JUL 10 1990

RECEIVED
JUL 10 1990

